

TEMPLATE AIA® Document A141™ – 2014

Exhibit B

Insurance and Bonds

Editing Template

CAUTION: Do not remove or otherwise edit Project Data fill-point (Basic Information, Contract Details and Project Team) when using this document

for the following PROJECT:

(Name and location or address)

« »
« »

THE OWNER:

(Name, legal status and address)

« »« »
« »

THE DESIGN-BUILDER:

(Name, legal status and address)

« »« »
« »

THE AGREEMENT

This Insurance Exhibit is part of the accompanying agreement for the Project, between the Owner and the Design-Builder (hereinafter, the Agreement), dated the « » day of « » in the year « ».

(In words, indicate day, month and year.)

TABLE OF ARTICLES

B.1 GENERAL

B.2 DESIGN BUILDER'S INSURANCE AND BONDS

B.3 OWNER'S INSURANCE

B.4 SPECIAL TERMS AND CONDITIONS

ARTICLE B.1 GENERAL

The Owner and Design-Builder shall purchase and maintain insurance and provide bonds as set forth in this Exhibit B. Where a provision in this Exhibit conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Exhibit will prevail.

ARTICLE B.2 DESIGN BUILDER'S INSURANCE AND BONDS

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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§ B.2.1 The Design-Builder shall purchase and maintain the following types and limits of insurance from a company or companies lawfully authorized to do business in the jurisdiction where the Project is located. The Design-Builder shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 11.2.2.1 of the Agreement, unless a different duration is stated below:

(If the Design-Builder is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

« »

§ B.2.1.1 Commercial General Liability with policy limits of not less than « » (\$ « ») for each occurrence and « » (\$ « ») in the aggregate providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury;
- .3 damages because of injury to or destruction of tangible property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 contractual liability applicable to the Design-Builder's obligations under Section 3.1.14 of the Agreement.

§ B.2.1.2 Automobile Liability covering vehicles owned by the Design-Builder and non-owned vehicles used by the Design-Builder with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles specified in this Section B.2.1.2, along with any other statutorily required automobile coverage.

§ B.2.1.3 The Design-Builder may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections B.2.1.1 and B.2.1.2.

§ B.2.1.4 Workers' Compensation at statutory limits.

§ B.2.1.5 Employers' Liability with policy limits as provided below:

« »

§ B.2.1.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.2.1.7 *[Intentionally Omitted]*

§ B.2.1.7.1 The Design-Builder may obtain a combined Professional Liability and Pollution Liability policy to satisfy the requirements set forth in Sections B.2.1.6 and B.2.1.7, with combined policy limits that are not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ B.2.1.8 The Design-Builder shall provide written notification to the Owner of the cancellation or expiration of any insurance required by this Article B.2. The Design-Builder shall provide such written notice within five (5) business days of the date the Design-Builder is first aware of the cancellation or expiration, or is first aware that the cancellation or expiration is threatened or otherwise may occur, whichever comes first.

§ B.2.1.9 Additional Insured Obligations. The Owner and its consultants and contractors shall be additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability and Pollution Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations. The policy limits applicable to the additional insureds shall be the same amount applicable to the named insured or, if the policy provides otherwise, policy limits not less than the amounts required under this Agreement.

§ B.2.1.10 Certificates of Insurance. The Design-Builder shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article B.2: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 of the Agreement and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section B.2.1. The certificates will show the Owner and its consultants and contractors as additional insureds on the Design-Builder's primary and excess insurance policies for Commercial General Liability, Automobile Liability, and Pollution Liability. Information concerning reduction of coverage on account of revised limits, claims paid under the General Aggregate or both, shall be furnished by the Design-Builder with reasonable promptness.

§ B.2.1.11 Insurance Policies in General. The Design-Builder covenants and agrees that all insurance required to be obtained and maintained by Design-Builder by any provision of the Agreement or elsewhere in the Design-Build Documents (whether or not an additional premium shall be payable in connection therewith) shall:

- .1 Be subject to the approval of the Owner solely in order to determine if such insurance complies with the requirements of the Design-Build Documents in all material respects, and shall be in such form as are reasonably acceptable to the Owner, and shall be issued by insurance companies authorized to do business in the State of North Carolina and which have a Best's rating of A (VII) or better;
- .2 Be procured, by Design-Builder, at no additional expense to the Owner and to the extent available for periods equal to the term of the construction of the Project but not less than one (1) year; in addition, products/completed operations insurance shall be maintained on the Project for a period not less than six (6) years following Owner's acceptance of the Work and Final Payment to the Design-Builder;
- .3 Be evidenced by certificates of such policies delivered to the Owner in accordance with the provisions of this Article 11, together with a letter from Design-Builder and its insurance agent or broker certifying that all requirements of the Design-Build Documents regarding insurance have been satisfied, that all premiums for such insurance have been paid and are current and that all such required insurance is in full force and effect, delivered prior to any materials or equipment being brought to the Sites or the commencement of any Work, whether on the Sites or elsewhere;
- .4 Be replaced upon their expiration by new or renewal policies or duplicate copies thereof, as aforesaid, certificates of insurance for which are delivered to the Owner at least thirty (30) days before the expiration of such policies; or immediately upon completion of renewal, whichever is latest;
- .5 With respect to builder's risk insurance, contain a provision that the insurer waives its rights to subrogation of any right to recover the amount of any loss from any of the insureds or additional insureds;
- .6 Contain a provision that such policies shall not be canceled or modified without at least thirty (30) days' prior written notice to the Owner and notices of cancellation for any reason shall, in addition to other notice requirements of this contract, be provided to:

Finance Director, City of Durham
101 City Hall Plaza
Durham, NC 27701

or to such other party or at any other address as may be designated from time to time by proper written notice given to Owner in accordance with Section 15.3.

- .7 With respect to builder's risk insurance, at the option of Owner, as the case may be, coverage may be effected by blanket policies covering the Site and other properties owned or leased by Design-Builder, provided that the policies otherwise comply with the provisions of the Design-Build Documents and allocate to the Sites the specified coverage without possibility of reduction or coinsurance by reason of, or damage to, any other premises named therein, and if the insurance required by the Design-Build Documents shall be effected by any such blanket policies shall, upon request, furnish to the Owner certified copies or duplicate originals of such policies in place of the originals, with schedules thereto attached showing the amount of insurance afforded by such policies applicable to the Site;
- .8 Property insurance may provide for a deductible not to exceed One Hundred Thousand Dollars (\$100,000) and the City and Owner shall not be responsible for payment of any part of this deductible. Liability insurance and workers' compensation insurance shall provide full coverage,

- which may include deductibles; however, the City and Owner shall not be responsible for payment of any part of such deductibles except with the written approval of the City's Finance Director;
- .9 Contain an agreement that valuation of loss (where applicable) is to be on a replacement cost basis; and
 - .10 Contain a waiver of all coinsurance requirements;
 - .11 With respect to liability policies, evidence of additional insured coverage shall be as follows:
 - .1 If by specific endorsement, then each time an insurance certificate is provided, an original of the specific endorsement to effect the coverage must be attached to the certificate;
 - .2 If by blanket endorsement, the certificate shall state in the appropriate section that the general liability policy contains such endorsement and shall also state that City and Owner are additional insured.
 - .3 With respect to the commercial general liability insurance, contain a provision that the insurer waives its rights to subrogation or any right to recover the amount of any loss from any of the insureds or additional insureds.

§ B.2.1.12. Cooperation on Insurance Claims.

Design-Builder and the Owner shall cooperate in a prompt manner in connection with the making of any claims and the collection of any insurance monies that may be due in the event of loss, and Design-Builder and the Owner shall execute and deliver such proofs of loss and other instruments which may be required for the purpose of obtaining the recovery of any such insurance monies. The City Manager and City Finance Director are authorized to sign for the City such proofs of loss, release agreements, releases, or other forms necessitated by this paragraph.

§ B.2.1.13 Other Insurance of Design-Builder

Design-Builder shall not carry separate insurance concurrent in form or contributing in the event of loss covered by insurance as required by the Agreement and the Design-Build Documents unless the Owner are included therein as an additional insured or additional insureds as applicable, with loss payable as provided in the Agreement and the Design-Build Documents and unless the net effect of the other insurance is to increase the coverage or improve the financial protection offered without corresponding or off-setting reduction or limitation in the financial protection offered. The Design-Builder immediately shall notify the Owner of the carrying of any such separate insurance and shall cause the policies therefore or certificates thereof to be delivered to the City of Durham and Owner.

§ B.2.2 Performance Bond and Payment Bond

The Design-Builder shall provide surety bonds as follows:
(Specify type and penal sum of bonds.)

Type	Penal Sum (\$0.00)
Attached City of Durham Standard Performance and Payment Bond	

§ B.2.2.1 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Design-Builder shall promptly furnish a copy of the bonds or shall permit a copy to be made.

§ B.2.2.2 At the request of the Owner, the Design-Builder shall execute and deliver to the Owner a certification, in a form satisfactory to the Owner, certifying that the amount of the performance bonds and the amount of the payment bonds each have been issued in the principal sum of the Contract Sum of the Project and that the Owner is named as the beneficiary of the Performance Bond.

§ B.2.3. Compliance with Insurance Requirements and OSHA

§ B.2.3.1 Design-Builder shall not violate or permit to be violated any of the conditions or provisions of any insurance policy, and Design-Builder shall promptly so perform and satisfy or cause to be performed and satisfied the requirements of such policies. Design-Builder shall not violate or permit to be violated any OSHA standards or regulations regarding occupational safety and health by Design-Builder, its employees or its Subcontractors. Design-Builder shall indemnify and hold the Owner harmless for any loss, cost, penalty, or fines, in connection with violations of OSHA by Design-Builder, its employees, or its Subcontractors. Design-Builder shall, at its own expense, pay all costs associated with legal defense for the Owner for any reason arising in connection with OSHA violations, regardless of the source of the violation or the validity of the allegation, except that Design-Builder shall not be responsible for any OSHA violations committed by Owner's (including City's) employees.

§ B.2.4. No Effect on Indemnity by Design-Builder

§ B.2.4.1 The coverage specified in the Agreement and this Exhibit B is not intended and shall not be construed to limit any liability or indemnity of the Design-Builder under the Design-Build Documents.

ARTICLE B.3 *[Intentionally Omitted]*

ARTICLE B.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

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